IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 1215 of 2004

Between:

S.Hanumantharao, S/o.Late Bhagirao,51 years,

Assistant Estate Manager,
R/o.D.No.43-9-148, TSN Colony,

Viskahapatnam-530 016.

..... PETITIONER

AND

1 . Andhra Pradesh Forest Development Corporation Ltd.,

rep. by its Vice Chairman & Managing Director,
Regd. office, 3rd floor, AC Guards, Hyderabad-4,
2. Andhra Pradesh Forest Development Corporation Ltd.,

Rep. by its Regional Manager, Visakhapatnam.
3. Andhra Pradesh Forest Development Corporation Ltd.,

Rep. by its Divisional Manager, RV Nagar (West),
Paderu Division, Visakhapatnam District.
4. The Tahasildar, Pottangi Tahasil, Koraput District,

Koraput, Orissa State.
5. The District Collector, Koraput District, Koraput.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue an Order, Direction or a Writ one in the nature 'MANDAMUS' declaring (i) the Proceedings Ref.PD/1.3.4/2004, dt.1-1-2004 of the 1st respondent, as illegal, arbitrary and violative of principles of natural justice and by SETTING ASIDE THE SAME consequently direct the respondents 1 to 3 to reinstate the petitioner into service with back wages, continuity of service and all attendant benefits forthwith.

Counsel for the Petitioner :MR.A.SRINIVASA SARMA

Counsel for the Respondent No.1 to 5: Mr. P. SREE RAMULU NAIDU

The Court Made the Following :

ORAL ORDER:

An Assistant Estate Manager working in the Andhra Pradesh Forest Development Corporation Limited (for short 'the APFDCL') at Visakhapatnam has filed this writ petition challenging the show cause notice dated 01-01-2004 issued calling upon him to show cause why his services should not be terminated. This show cause notice has been issued on a *prima facie* satisfaction that the Scheduled Tribe caste certificate produced by him at the time of his employment certifying him as belonging to 'Konda Kapu', was a false certification.

Certain vacancies were notified by the Conservator of Forests, Coffee Plantation Project, Visakhapatnam during 1980, including the category of Junior Supervisors to be filled up exclusively by Scheduled Tribe candidates. The petitioner claimed to be a Scheduled Tribe candidate and on the basis of such claim he was sponsored by the employment exchange along with other Scheduled Tribe candidates. Considering the caste certificate produced by the petitioner, he was admitted for written test and interview conducted on 14-04-1980 and pursuant to the selection, he was appointed as 'Apprentice Junior Supervisor' in the Coffee Plantation Project of APFDCL. The appointment order dated 26-04-1980 were issued. Subsequently, the petitioner was promoted as Senior Supervisor with effect from 02-10-1987 and as Assistant Estate Manager with effect from 16-11-1994.

A news item appeared in a Telugu daily on 11th, 12th and 15th July, 2002 alleging that the petitioner had obtained employment by producing a false Scheduled Tribe caste certificate. On seeing this

news item, inquiries were initiated by APFDCL into the genuineness of the caste certificate produced by the petitioner. At the time of his appointment, the petitioner has produced caste certificate dated 28-06-1972 issued by the Additional Tahsildar, Sunabeda (Orissa State). The employer thereupon made inquiries from the certificate issuing authority in Orissa State and obtained communications from them to the effect that neither of the castes 'Konda Kapu, Kondalapu nor Kondalaput' are recognized as Scheduled Tribes in the State of Orissa. The caste certificate produced by the petitioner at the time of his employment issued by the Additional Tahsildar, Sunabeda certifying that the petitioner, a resident of Tilagar village, 24 Praganas district in the State of West Bengal, belongs to Konda Kapu caste. Whether Konda Kapus of the State of West Bengal or the State of Orissa are a Scheduled Tribe within the meaning of Scheduled Castes and Scheduled Tribes Order issued by the Hon'ble President of India are questions of fact to be determined on the basis of a perusal of the Presidential notification. It is axiomatic that the certifying authorities are not empowered to add or delete castes from the Presidential notification. The limits and jurisdiction of such certifying authorities is to the extent of determination whether a particular person belongs to a particular caste. If 'Konda Kapu' caste is not enumerated in the State of West Bengal as a Scheduled Tribe in the Presidential notification, the mere fact that the Additional Tahsildar, Sunabeda has certified that the petitioner who belongs to Tilagar village of 24 Pragana district, State of West Bengal is a Konda Kapu and hence a Scheduled Tribe would not confer any legitimacy to such certification. Such a certificate would be patently without jurisdiction and still born.

On the analysis above, this court finds no infirmity or patent lack of jurisdiction in the impugned show cause notice issued to the petitioner. The writ petitioner is at liberty to submit his objections to the show cause notice within a period of ten (10) days from the date of receipt of a copy of this order. The respondents shall consider all objections putforth by the writ petitioner in such explanation to the

show cause notice, in case he submits such explanation within the time aforesaid; and the respondents shall pass a reasoned order dealing with all objections of the petitioner. The petitioner is also at liberty to seek copies of the reports obtained by the respondents from the authorities in the State of Orissa. On such a request made by the petitioner, the respondents shall supply him all such reports or other documents, which have a bearing on the inquiry that is to be initiated by the respondents against the petitioner in respect of his caste certificate. The petitioner shall be afforded a reasonable time not exceeding fifteen (15) days from the date of furnishing of such documents for submitting his explanation/additional explanation after perusal of such documents, as he desires. On receipt of such explanation from the petitioner, the respondents shall take a decision on the proposal contained in the show cause notice dated 01-01-2004 in accordance with law.

The writ petition is, accordingly, disposed of. No costs.

GODA RAGHURAM, J

Dt. 07-07-2004

Pvks/*

Nb: Furnish **c.c. tomorrow**.

B/o pvks/*

To

1 . The Vice Chairman & Managing Director,

Andhra Pradesh Forest Development Corporation Ltd.,

Regd. office, 3rd floor, AC Guards, Hyderabad-4,

2. The Regional Manager,

Andhra Pradesh Forest Development Corporation Ltd.,

Visakhapatnam.

3. The Divisional Manager,

Andhra Pradesh Forest Development Corporation Ltd.,

RV Nagar (West),Paderu Division, Visakhapatnam District.

4. The Tahasildar, Pottangi Tahasil, Koraput District,

Koraput, Orissa State.

5. The District Collector, Koraput District, Koraput.

6. 2CD copies